IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21209 of 2004

Between:

A. Zareena Khatun, W/o M. Hameed,
A.P. Tribal Welfare Residential Educational School for Girls, Mahanandi,Kurnool District, now working on deputation at APSWRPRP Schools (Girls), Adapur, Kadapa District.

..... PETITIONER

AND

The Principal Secretary, Gurukulam, A.P. Tribal Welfare Residential Educational Institution Society, II floor, T.S. Bhavan, Masabtank, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari calling for all the connected records including the impugned order of the respondent in RC.No. A1/4272/2003, dated 14-9-2004 so far as rejecting the claim of the petitioner from 12-6-2003 to 12-1-2004 in not treating the same as compulsory wait and quash the same as illegal, improper, unjust, arbitrary and contrary to law and further direct the respondent herein to treat the period from, 12-6-2003 to 12-1-2004 as compulsory wait by releasing the salary and other benefits attached to the post for the above period to the petitioner

Counsel for the Petitioner: MR.K.G.KRISHNA MURTHY

Counsel for the Respondent: MR.G.CHANDRAIAH , S.C. for Tribal Welfare

The Court made the following :

ORAL ORDER:

This writ petition is filed challenging the Proceedings in Rc.No.A1/4272/2003, dated 14.9.2004 issued by the respondent rejecting the claim of the petitioner in treating the period from 12.6.2003 to 12.1.2004 as compulsory wait.

The fact that the petitioner was transferred to Zone-VI by virtue of orders, dated 11.6.2003 and that she filed W.P.No.12661 of 2003 and ultimately she was posted to Zone-IV on 12.1.2004 is not in dispute.

Heard the learned counsel for the petitioner and the learned standing counsel for the respondent and perused the material on record.

The learned counsel for the petitioner has contended that originally, the petitioner was posted to Zone-IV. Later, by virtue of orders, dated 11.6.2003, the petitioner was transferred to Zone-VI which is contrary to the presidential order. Therefore, the petitioner filed W.P.No.12661 of 2003 wherein this court, by an order dated 16.7.2003 held to the following effect:

> *"In view of the same, I direct to allot the Zone within a period of four weeks from the date of receipt of this order and thereupon take steps for posting the petitioner in appropriate place in the*

Zone for which she will be allotted. The petitioner shall submit the requisite documents for allotment of Zone within a period of one week from the date of receipt of this order and till allotment orders are issued, the impugned order of transfer shall not be given effect to."

The above order is very clear that the petitioner shall be posed in any Zone to which she will be allotted based on the documents for allotment of Zone within a period of one week. Thereupon, the petitioner gave a representation to the respondent to implement the orders of this Court, which directed to post the petitioner in Zone-IV, but those orders have not been implemented.

The learned standing counsel for the respondent has contended that it is for the petitioner to report for duty to the Head Office, but the petitioner did not do so, therefore, no posting orders are given to the petitioner immediately. Hence, the impugned order does not suffer from any legal infirmities so as to call for interference by this court.

After the disposal of the W.P.No.12661 of 2003, dated 16.7.2003, the respondent has to take appropriate decision to post the petitioner in zone-IV based on the documents submitted by the petitioner till the impugned proceedings, dated 6.1.2004 were passed. Thereafter, the petitioner was directed to give an option for any six zones in the order of preference, and the petitioner opted for only zone-IV, but the individual could not be allotted to zone-IV for want of vacancies. Ultimately, by the proceedings, dated 6.1.2004, the petitioner was allotted to zone-IV.

So, from the above proceedings, it is clear that there is no negligence, inaction or willful avoidance on the part of the petitioner in disobeying the orders. Inasmuch as the respondents have not given any posting orders, the petitioner could not be in a position to join duty in pursuance of the directions given by this Court. Hence, in the absence of any negligence or *mala fide* intention, it cannot be attributed to the writ petitioner so as to punish her in not treating the period from 12.6.2003 to 12.1.2004 as compulsory wait. Therefore,

the order under challenge suffers from incurable legal infirmities so as to call for interference by this Court and accordingly, the impugned proceedings are quashed and set aside. A direction is given to the respondent to treat the period from 12.6.2003 to 12.1.2004 as compulsory wait only.

The writ petition is allowed. In the circumstances of the case, there shall be no order as to costs.

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(K.C. BHANU, J.)

10th February, 2005.

bcj

To

1 The Principal Secretary, Gurukulam, A.P. Tribal Welfare Residential Educational Institution Society, II floor, T.S. Bhavan, Masabtank, Hyderabad.

2. Two C.D. copies.